THE HON'BLE SRI JUSTICE L.NARASIMHA REDDY

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WRIT PETITION No.22923 OF 2005

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Between:

A.Sammi Reddy . . .Petitioner

And

The Singareni Colleries Co. Ltd, Adilabad, and another. . .Respondents

THE HON'BLE SRI JUSTICE L.NARASIMHA REDDY

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WRIT PETITION No.22923 OF 2005

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O R D E R:

The petitioner was initially employed in the Singareni Colleries on 25-10-1970 as Voluntary Casual Worker. In June 1972, he was promoted as Coal Filler. His date of birth was entered as 25-10-1945 in the service records. In pursuance of a settlement arrived in between the management and the workmen, the Singareni Colleries issued a notification in 1988 displaying the dates of birth of various employees and inviting objections for the same.

The petitioner claims to have submitted a representation stating that his date of birth is 25-06-1951 as entered in the school records. The petitioner states that in view of his representation, the respondents referred him to a Medical Board on 20-10-2003 and notwithstanding the specific entry in the school record, he was declared to be of 58 years as on the date of medical examination. The petitioner challenges the action of the respondents in proposing to retire him with effect from 31-10-2005.

Respondents 1 to 5 filed counter affidavit disputing the contention of the petitioner. Reference is made to the various steps that have been taken ever since the petitioner joined service. The respondents expressed a doubt as to the genuineness of the transfer certificate issued by the school. Extensive reference is made to certain decided cases and ultimately, urged that the disputed questions of fact cannot be adjudicated in the writ petitions.

Heard the learned counsel for the petitioner and the learned counsel for the respondents.

The petitioner disputes the date of birth, which is entered in his service records. The first entry was made more than three decades ago. Subsequently, the date of birth was entered in several records for the purpose of payment of

provident fund or nomination of dependants etc. He did not raise any dispute as to the correctness of the date of birth. In the year 1988, in pursuance of the demand made by the union, the respondents invited objections as to the correctness of the dates of birth. The reason was that the dates of birth of unskilled labourers were entered mostly on the basis of the assessment, than on the strength of the records. He claims to have submitted a representation enclosing the transfer certificate obtained from the High School.

The respondents referred the petitioner to a Medical Board on 20-10-2003. The Board opined that as on the date of examination, the petitioner is of 58 years. For the past about two years, the petitioner did not take any substantive steps assailing the correctness of the same. Even otherwise, this Court cannot substitute its opinion for that of a Medical Board. Further, it is not as if the petitioner is in possession of any clinching documentary evidence. One can understand that if the claim of the petitioner is based upon the entries in any birth register or the Secondary School Certificate, the transfer certificate issued by a school cannot constitute the clinching evidence, in the matter of date of birth.

This Court cannot undertake any adjudication of such disputed questions of fact, nor can substitute its opinion for that of a specialized agency, like the Medical Board.

Hence, the writ petition is dismissed. It is, however, observed that if the petitioner has any other remedy in this regard, it shall be open to him to avail the same. There shall be no order as to costs.

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(L.NARASIMHA REDDY, J)

28th OCTOBER, 2005.

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